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**U.S. Department of Homeland Security
Bureau of Citizenship and Immigration Services**

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 Mass, 3/F
Washington, D.C. 20536

FILE:

Office: MIAMI, FLORIDA

Date: JUL 02 2003

IN RE: Applicant:

APPLICATION:

Application for Waiver of Grounds of Inadmissibility under section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann

Robert P. Wiemann, Director
Administrative Appeals Office

JUL0203-04H2212

DISCUSSION: The waiver application was denied by the District Director, Miami, Florida. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The AAO affirmed the prior decisions on a motion to reconsider. The matter is now before the AAO on a second motion to reconsider. The motion will be summarily dismissed and the previous decisions of the District Director and the AAO will be affirmed.

The record reflects that the applicant is a native and citizen of Haiti who was found to be inadmissible to the United States under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having sought to procure admission to the United States (U.S.) by fraud or material willful misrepresentation. The applicant is married to a naturalized citizen of the United States and is the beneficiary of an approved petition for alien relative. She seeks the above waiver in order to remain in the U.S. with her family and adjust her status to that of a lawful permanent resident under the Haitian Refugee Immigrant Fairness Act of 1998, Pub. L. 105-277 (HRIFA).

The district director concluded that the applicant had failed to establish extreme hardship would be imposed on a qualifying relative and denied the application accordingly. The decision was affirmed by the AAO on appeal. See AAO *Decision*, dated July 20, 2001.

On first motion to reconsider, counsel asserted that the AAO decision was contrary to the law, an abuse of discretion, and inconsistent with the facts of the case and information presented. After careful review of the case, the AAO affirmed the prior district director and AAO decisions. See AAO *Decision*, dated October 2, 2002.

In the present motion to reopen/reconsider, filed November 1, 2002, the applicant asserts that "[t]he alien presents a morally compelling circumstance as to why the matter should be reopened and heard on the merits." The applicant asserts further that she is submitting to the Immigration and Naturalization Service ("INS" - now known as the Bureau of Citizenship and Immigration Services):

[A] properly done waiver of grounds and an extreme hardship declaration provide[d] by her U.S. citizen husband stating the hardship that he will be suffered from [sic] if the Alien should be deported from the United [S]tates, how he will not be able to survive the hardship that will cause to his life.

The applicant made no other assertions in her motion to

reopen/reconsider and no new information or evidence was submitted. It is noted that, although the current motion states that it is submitted through counsel, there is no indication in the record that counsel prepared the present motion or that counsel submitted any new information or evidence relating to the motion.

8 C.F.R. § 103.5(a) states in pertinent part:

(a) Motions to reopen or reconsider

(2) Requirements for motion to reopen. A motion to reopen must state the new facts to be proved in the reopened proceeding and be supported by affidavits or other documentary evidence.

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(3) Requirements for motion to reconsider. A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

(4) Processing motions in proceedings before the Service. A motion that does not meet applicable requirements shall be dismissed

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The applicant in this case failed to set forth any new facts to be proved. The applicant also failed to identify or state any erroneous conclusions of law or statements of fact in her appeal. The motion will therefore be dismissed.

ORDER: The appeal is dismissed.